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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

BALTIMORE & O. R. CO. v. LEE.

Sept. 24, 1906.

[55 S. E. 1.]

Trial—Instructions—Submission of Matters Not in Issue.—In an action for a personal injury negligently inflicted, an instruction embodying the duty defendant owed to others than plaintiff was erroneous because not in issue.

[Ed. Note.—For cases in point, see vol. 46, Cent. Dig. Trial, §§ 587-595.]

Railroads—Injuries to Licensees—Contributory Negligence—Last Clear Chance.—A brakeman in the employ of S. railway was in a coach on a delivery track in a yard of the company. A crew of B. railway was engaged in backing a freight train on the delivery track to couple the train to the coach. The brakeman stepped onto the coach platform for the purpose of alighting. The jar caused by the train striking the coach caused him to fall. There was no appreciable interval of time between his going onto the platform and the train striking the coach. Held, that as the crew had no opportunity to exercise any degree of care to avoid the consequences of the brakeman's negligent act in going onto the platform, the doctrine of the last clear chance was inapplicable.

Trial—Exceptions to Instructions—Sufficiency.—Where a party objected to an instruction, and made the objection the subject of a bill of exceptions, the failure to object to a subsequent instruction embodying the same principle did not impair his right to rely on the exception taken.

BREEDEN et ux. v. PEALE.

Sept. 24, 1906.

[55 S. E. 2.]

Attachment—Actions in Which Attachment Is Authorized—Motion for Judgment by Notice.—Code 1887, § 2959 [Va. Code 1904, p. 1588], providing for the issuing of an attachment at the time of bringing any action for the recovery of personal property, a debt or damages for breach of contract, applies to a motion for judgment by notice.

Lis Pendens.—Code 1887, § 3566 [Va. Code 1904, p. 1903] provides that no lis pendens or attachment shall affect a bona fide purchaser without notice under a memorandum, etc., be left with the clerk